

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

FULL BOARD MEETING MINUTES

JULY 7, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Ron Alvarado, Vice President
Richard Carpenter, Member
William Elkins, Member
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. Statutorily required ethics training is available either through an Internet based training program or by viewing a video.
- B. The State Personnel Board's 1999-2000 budget contains:
 - 1. An augmentation for service wide examining, quality assurance and upgrading the data system in the Appeals Division.
 - 2. Supplemental budget language requiring the State Personnel Board to report to the Legislature on the implementation of the recommendations from the Auditor General.

3. Supplemental budget language requiring the State Personnel Board to re-review positions converted to CEA between 1995-1999, as those positions become vacant.
 - C. The United State Supreme Court issued three decisions interpreting the application of the Americans With Disabilities Act (ADA): Sutton et al. v. United Air Lines, Inc. (U.S. 97-1943); Murphy v. United Parcel Service, Inc. (UPS) (U.S. 97-1992); Albertsons Inc. v. Cirkingburg (U.S. No. 98-591). Sutton held that an individual whose disability is corrected (such as wearing glasses) such that the individual is no longer substantially limited in any major life activity does not meet the definition of an individual with a disability and thus is not protected by the act. The court applied the same ruling in Murphy, to hold that a plaintiff who controlled his high blood pressure with medication and was not excluded from a job as a mechanic with UPS, was not disabled for the purposes of the ADA. In Albertsons, the court held that the employer could fire the plaintiff for not meeting the Department of Transportation's (DOT) federal vision standards even though the plaintiff was able to secure a waiver of those standards from DOT. State Personnel Board staff is reviewing the cases and conferring with the Department of Fair Employment and Housing to determine what, if any impact they will have on Board programs and decisions
 - D. The summer issue of the Public Personnel Management Magazine published by the International Personnel Management Association contains an article on the Staff Services Analyst Internet examination entitled "State of California: Civil Service Testing Moves into Cyberspace".
3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Cases in the News

- A. Aside from the Americans With Disabilities Act (ADA) cases mentioned by the Executive Officer, the United States Supreme Court issued some decisions on the doctrine of sovereign immunity. The lead decision, Alden v. Maine, held that the doctrine of sovereign

immunity precludes plaintiffs with claims under federal law (in Alden, the claim was that the state violated the Fair Labor Standards Act) from suing the state for money damages in federal court unless the state has consented to such a suit.

Litigation

- A. Association of California State Attorneys and Administrative Law Judges, et al. v. California Department of Personnel Administration (DPA), et al. (Case No. 990CS00260). On June 23, 1999 Judge Connelly issued an interim ruling in this suit challenging the constitutionality of contracting by defendants with private arbitrators to hear and decide disciplinary appeals of Unit 8 employees. The Court asked the parties to brief the issue of "whether the Unit 8 Memorandum of Understanding (MOU) grievance and arbitration procedure improperly infringes upon the duty of the State Personnel Board under article VII section 3 (a) of the California Constitution, to review disciplinary actions taken against state civil service employees." (This is precisely the issue that was the subject matter of the State Personnel Board's lawsuit against DPA that was dismissed for lack of standing and that is now on appeal). Initial briefs are due July 9, 1999 and reply briefs due July 23, 1999 at which time the matter will be resubmitted for decision.

4. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. The Governor has appointed Michael Gotch as Legislative Affairs Secretary, Mr. Gotch, a former Assemblyman represented San Diego from 1990-1994.
- B. SB 951 (Hayden) - Aligns the state Whistleblower Act more closely to the Federal Act. We have been meeting with the Senator and his staff to resolve our issues; we are still working on amendments at this time.
- C. SB 377 (Polanco) - Amends the Whistleblower Act. The State Personnel Board does not have a position on this bill, but we have been meeting with the Senator, his staff, Governor's office and the Youth and Correctional Agency to provide technical assistance.

- D. AB 688 (Steinberg) - Requires State Personnel Board to review and approve contracts for personal service over \$50,000. Budget did not include money to implement this program, the State Personnel Board continues to oppose unless amended to include an appropriation.
- E. SB 1073 (Ortiz) - This is the State Personnel Board's omnibus bill. The bill is in Assembly Appropriations Committee.
- F. On June 30, 1999, Mr. William Elkins appointment to the State Personnel Board was unanimously approved by Senate Rules Committee with the recommendation to the Senate to approve the confirmation. Congratulations, Mr. Elkins.

5. PERS UPDATE - Ron Alvarado

- A. The Board was advised that the Public Employment Retirement System (PERS) fund has increased to \$156 billion with a sizable surplus. The PERS Board has considered a number of proposals for use of the surplus that would balance both the needs and interests of employees and employers.

6. ORAL ARGUMENT

Oral argument in the matter of Joseph P. Carlson, Case No. 98-3904. Appeal from dismissal. Department of Mental Health.

Persons Participating:

E. Glynn Stanley, Jr., Attorney at Law, representing appellant
Evon Dixon-Montgomery, Senior Staff Counsel, representing
Department of Mental Health

ACTION: Submitted

7. ORAL ARGUMENT

Oral argument in the matter of Michael Carl, Case No. 98-4549.
Appeal from 4 days suspension. Department of Corrections.

ACTION: Canceled, re-scheduled to August 3, 1999 Board
meeting.

8. ORAL ARGUMENT

Oral argument in the matter of Michael Jackson, Case No. 97-1818. Appeal from dismissal. Department of the Youth Authority.

ACTION: Canceled, re-scheduled to August 3, 1999 Board meeting.

9. HEARING

Proposed resolution to abolish eligible lists created by the Department of General Services and allow existing appointments to stand.

Persons participating:

John Jackson, Manager, State Personnel Board
Martha Esmael, Staff, State Personnel Board
Karen Brandt, Legal Counsel, State Personnel Board
Maria Jimenez-Cruz, Office Technician (Typing), Department of General Services
Art Jordan, CCMWPD, member
Jeff Marsh, Chief Counsel, Department of General Services
Kathy Diaz, speaking on behalf of family member
Nicole Phillips, Department of General Services
Kelly Reynolds, Office Technician (Typing), CCC
Jack Smith, Deputy Director, Department of General Services

ACTION: Adopted a resolution on July 7, 1999.
(See pages 20-22)

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

BOARD ACTIONS

10. STATE PERSONNEL BOARD SUMMARY MINUTES OF JUNE 22, 1999

ACTION: Adopted on July 7, 1999.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

11. ACTION ON SUBMITTED ITEMS

ACTION: (See pages 15-16)

12. ADMINISTRATIVE LAW JUDGE CASES

On July 7, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

PROPOSED DECISIONS

ROBERT SHEPHERD, CASE NO. 99-0567

Appeal from 5 percent reduction in Salary for 2 months
Department of General Services

ACTION: Reduction in salary sustained

ALBERT GERVIN, CASE NO. 98-4479

Appeal from temporary demotion (one year)
Department of Corrections

ACTION: Demotion sustained

LISA C. BLUNT, CASE NO. 99-0599

Appeal from dismissal
Department of Motor Vehicles

ACTION: Dismissal sustained

FRANCISCO MARTINEZ, CASE NO. 98-5055

Appeal from 60-calendar days suspension
Department of Corrections

ACTION: Suspension sustained

ANSELMO ALVARADO, CASE NO. 99-0687

Appeal from suspension for 1-pay period
Department of the Youth Authority

ACTION: Suspension sustained

JUAN R. BEJARANO, CASE NO. 99-0594

JOSE LUIS G. MUNOZ, CASE NO. 99-0675

CARLOS O. LOPEZ, CASE NO. 99-0691

Appeals from 30 calendar days suspension
Department of Corrections

Revoking Suspensions of Juan R. Bejarano,

ACTION: Jose Luis G. Munoz and Carlos O. Lopez revoked

STEPHANIE R. BLAIR, CASE NO. 98-0524

Appeal from dismissal

Department of Developmental Services

ACTION: Dismissal sustained

Minutes- Page 7
July 7, 1999

RONNIE E. LEE, CASE NO. 99-0690
Appeal from official reprimand
Department of Corrections
ACTION: Official reprimand revoked

GEORGE P. CHILDS, CASE NO. 99-0076
Appeal from rejection
Department of General Services
ACTION: Rejection affirmed and appeal denied

KAREN D. BOBB, CASE NO. 99-0192
Appeal from medical termination
Department of Developmental Services
ACTION: Medical termination sustained

NICOLA D. DAVIS-ALLEN, CASE NO. 99-1030
Appeal from dismissal
Department of Corrections
ACTION: Appeal dismissed and dismissal sustained

ALEXANDER KAIVAN, CASE NO. 98-4548
Appeal from 5 working days suspension
Department of Corrections
ACTION: Suspension sustained

JOHN D. NEEDS, CASE NO. 98-4762
Appeal from dismissal
Department of the Youth Authority
ACTION: Dismissal sustained

ARTHUR MUNOZ, CASE NO. 99-1404
Appeal from 45-calendar days suspension
Department of Corrections
ACTION: 45-calendar days suspension modified to 7 working days suspension

MICHAEL A. THOMPSON, CASE NO. 98-3739
Appeal from dismissal
Department of corrections
ACTION: Dismissal modified to demotion to Supervising Cook II (top step) and 11 months suspension

JUDITH VIEIRA, CASE NO. 99-0301
Appeal from demotion
Department of Developmental Services
ACTION: Demotion modified to official reprimand

Minutes- Page 8
July 7, 1999

DARYL E. MURDOCK, M.D., CASE NO. 99-4543

Appeal from dismissal

Department of Corrections

ACTION: Board adopted findings of fact, but modified
penalty of dismissal to official reprimand

REGINA PRICE-WILLIAMS, CASE NO. 98-4819

Appeal from 1-step reduction in salary for 12 months

Department of Corrections

ACTION: Reduction in salary sustained

THERESA LUCARELLI, CASE NO. 98-5149

Appeal from 60-calendar days suspension

Department of Corrections

ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself

DOROTHY J. LEMONS, CASE NO. 99-0074

Appeal from 30-calendar days suspension

Department of Rehabilitation

ACTION: Suspension sustained

SHAWANNA JOHNSON, CASE NO. 99-0212

Appeal from 10 percent reduction in Salary for 12 pay
periods

Department of the Youth Authority

ACTION: Reduction in salary modified to 5 percent for 6 pay
periods

ISOM COLEMAN, JR., CASE NO. 99-0441

Appeal from 5 percent reduction in Salary for 3 months

Department of Corrections

ACTION: Reduction in salary sustained

ERNEST CALLAWAY, CASE NO. 99-1064

Appeal to clear name after Limited-Term separation

Department of General Services

ACTION: Limited-term termination sustained

MALINDA G. HOWZE, CASE NO. 99-0510

Appeal from 80 working hours suspension

California State Polytechnic University

ACTION: Board adopted findings of fact, but modified
penalty of 80 working hours suspension to 5 working days
suspension

HAROLD D. RAY, CASE NO. 99-0853
Appeal from 5 working days suspension
Department of Corrections
ACTION: Suspension sustained

PETITIONS FOR REHEARING

LORIE ALEXANDER, CASE NO. 97-5243
Appeal from 30-calendar days suspension
Employment Development Department
ACTION: Petition for rehearing filed by appellant denied

SUSAN ALEXANDER, CASE NO. 97-0100
Appeal from constructive medical termination
Department of Fish and Game
ACTION: Petition for rehearing filed by appellant denied

CHRISTOPHER COLE, CASE NO. 98-4511
Appeal from 15 working days suspension
Department of corrections
ACTION: Petition for rehearing filed by respondent denied

FAUSTINO LAGURA, JR., CASE NO. 98-5100
Appeal from 5 working days suspension
Department of Transportation
ACTION: Petition for rehearing filed by appellant denied

HARVEY W. JUE, CASE NO 33884
Appeal from dismissal
Department of Consumer Affairs
ACTION: Petition for rehearing filed by respondent denied

DORIS JONES, CASE NO. 97-5107
Appeal from denial of reasonable accommodation and
constructive medical termination
Department of Transportation
ACTION: Petition for rehearing filed by appellant denied

JEFFREY McKINSTRY, CASE NO. 98-0724
Appeal from dismissal
Department of the Youth Authority
ACTION: Petition for rehearing filed by appellant denied
DUANE WILES, CASE NO. 98-4304
Appeal from dismissal
Department of Transportation

ACTION: Petition for rehearing filed by respondent granted

ROBERT DAVIS, CASE NO. 97-2572

Appeal from dismissal

Department of Corrections

ACTION: Petition for rehearing filed by appellant granted
and remanded to Administrative Law Judge

13. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: (See pages 17-19)

14. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On July 7, 1999, the Board adopted the following decisions
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.
VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

PETITIONS FOR REHEARING

- A. MICHAEL COLLIER, Case No. 99-1971
Classification: Psychiatric Technician Trainee
ACTION: DENIED
- B. REGINA BALTHAZAR, Case No. 99-1559
Classification: Motor Vehicle Field Representative
ACTION: DENIED
- C. GEMMA HOMSY, Case No. 99-1475
Classification: Transportation Engineer (Civil)
ACTION: DENIED

WITHHOLD CASES

- D. EDWARD CARLSON, Case No. 98-3890
Classification: Correctional Officer
ACTION: GRANTED

WITHHOLD DENIAL CASES

- E. KATHERINE CLARK, Case No. 99-0641
Classification: Staff Services Analyst

Minutes- Page 11
July 7, 1999

ACTION: DENIED

- F. DAVID C. DEBENEDETTI, Case No. 98-4233
Classification: Correctional Officer
ACTION: DENIED
- G. CHRISTOPHER D. GOLECO, Case No. 99-1084
Classification: Correctional Officer
ACTION DENIED
- H. DAVID P. JONES, Case No. 99-0504
Classification: Correctional Officer
ACTION: DENIED
- I. ALEJANDRO LADI, Case No. 98-5089
Classification: Hospital Peace Officer I
ACTION: DENIED
- J. LAURI LENHARDT, Case No. 99-0394
Classification: Correctional Officer
ACTION: DENIED
- K. ELIAS V. MORENO, JR., Case No. 99-0475
Classification: Correctional Officer
ACTION: DENIED
- L. REFUGIO DE JESUS OCHOA, Case No. 99-0611.
Classification: Medical Technical Assistant
ACTION: DENIED
- M. MARK A. PITTS, Case No. 98-5120
Classification: Hospital Peace Officer
ACTION: DENIED
- N. JENNIFER POWERS, Case No. 98-4727
Classification: Group Supervisor (DYA)
ACTION: DENIED
- O. KEONI SOPER, Case No. 98-5238
Classification: Hospital Peace Officer I
ACTION: DENIED

DISMISSAL CASE

- * AMY HARRISON, Case No. 98-3203
Classification: Youth Counselor
ACTION: DISMISSED - Department withdrew action.

15. MEDICAL APPEALS

On July 7, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

- A. JAMES HOGAN, Case No. 98-4351
Classification: Correctional Officer
ACTION: DENIED

DISMISSAL CASE

- * MELVIN JONES, Case No. 99-1837
Classification: Youth Correctional Officer
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.

16. EXAMINATION APPEALS

On July 7, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

- A. PATRICIA NICHOLSON, Case No. 98-0250
Final Filing Date: October 23, 1997
Examination: Written
Class: Manager I, Department of Motor Vehicles
Testing Agency: Department of Motor Vehicles
Appeal Received: January 22, 1998
ACTION: DENIED

DISMISSAL CASE

- * ROBERT GUNN, Case No. 98-4736
Classification: Public Health Medical Administrator I
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.

17. NON-HEARING CALENDAR

On July 7, 1999, the Board adopted items A & B. These items were presented by Laura Aguilera, Chief, Personnel Resources and Innovation Division, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

- A. AGRICULTURAL AIDE/INSPECTOR (SEASONAL)
AGRICULTURAL INSPECTOR II (PERMANENT INTERMITTENT)
AGRICULTURAL INSPECTOR III (PERMANENT INTERMITTENT)
The California Department of Food and Agriculture proposes revision and title changes to the Agricultural Aide/Inspector (Seasonal) class series and Agricultural Inspector II and III (Permanent Intermittent) and consolidation of these two classes into a series specification.
- B. CLAIM AUDITOR
SUPERVISING CLAIM AUDITOR
ASSISTANT PRINCIPAL CLAIM AUDITOR
PRINCIPAL CLAIM AUDITOR
SENIOR CLAIM AUDITOR
The Office of the State Controller proposes combining the classes of Claim Auditor, Supervising Claim Auditor, Assistant Principal Claim Auditor and Principal Claim Auditor into a series specification of Claim Auditor; retitling the Supervising Claim Auditor to Senior Claim Auditor; and revision of terminology and Minimum Qualifications appearing in the new series specification.

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

- A. CEA POSITION ACTIONS CURRENTLY UNDER CONSIDERATION
 - (1) CHIEF LEGAL COUNSEL
The Department of Alcohol & Drug Programs proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the directorate and will be responsible for directing the Office of Legal Services and providing legal advice and guidance to the directorate and to the various programs administered by the Department.
- B. CEA POSITION ACTIONS APPROVED BY DPA AND APPROVED OR DENIED BY SPB MANAGEMENT
 - (1) ASSISTANT CHIEF, PERSONNEL AND TRAINING DIVISION
ASSISTANT CHIEF, ADMINISTRATIVE SERVICES DIVISION

The California Highway Patrol's proposed allocation of the above positions to the CEA category for an additional six months has been approved.

- (2) CHIEF INFORMATION OFFICER
The Department of Motor Vehicles' proposed allocation of the above position to the CEA category has been approved.
- (3) ACTIVATION MANAGER
The Prison Industry Authority's proposed allocation of the above position to the CEA category has been approved for 24 months.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. RANDY HENDERSON, CASE NO. 97-1799. Appeal from dismissal. Department of the Youth Authority. (Oral argument held April 6, 1999.)

ACTION: On July 7, 1999 adopted Board decision revoking dismissal.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

2. YVONNE M. VILLANUAVA, CASE NO. 97-3061. Appeal from dismissal. Department of Corrections. (Oral argument held May 4, 1999.)

NO ACTION

3. DENNIS K. WILLIAMS, CASE NO. 98-2262. Appeal from rejection. Department of Rehabilitation. (Oral argument held May 4, 1999.)

ACTION: On July 7, 1999 adopted Board decision revoking rejection, appellant restored to position of Associate Governmental Program Analyst.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

4. ETHEL WARREN, CASE NO. 98-2130. Appeal from dismissal. Department of Corrections. (Oral argument held June 8, 1999.)

NO ACTION

5. YOUNG PARK, CASE NO. 98-3585 Appeals from 5 percent reduction in salary for 6 months and dismissal. Department of Mental Health. (Oral argument held June 8, 1999.)

ACTION: On July 7, 1999 adopted Board decision modifying dismissal to 6-months suspension/revoking reduction in salary.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

6. SAMUEL SALGADO, CASE NO. 98-1290. Appeal from dismissal. Department of Corrections. (Oral argument held June 8, 1999.)

NO ACTION

7. ANGELA BLAKES, CASE NO. 98-3598. Appeal from official reprimand. Department of the Youth Authority. (Oral argument held June 8, 1999.)

ACTION: On July 7, 1999 adopted Board decision revoking official reprimand.

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on July 7, 1999.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Bos, Alvarado, Carpenter, Elkins, Harrigan - Aye.

(See page 5, Item #9)

That the following Resolution be adopted:

WHEREAS, Article VII, Section 1 (b), Constitution of the State of California states, "In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination"; and

WHEREAS, Government Code Section 18930 provides that, "Examinations for the establishment of eligible lists shall be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors actually to perform the duties of the class of position for which they seek appointment..."; and

WHEREAS, the State Personnel Board (SPB) Rule 198 states, "Ratings of education, experience, and personal qualifications shall be made on a competitive basis in that each competitor shall be rated thereon in relation to the minimum qualifications for the class in question and in relation to the comparable qualifications of other competitors..."; and

WHEREAS, the SPB has determined that the eligible lists for the following classifications and locations were not established in compliance with Section 18930, SPB Rule 198 and Article VII of the State Constitution, in that anyone who met the minimum qualifications of the above classifications was assigned a single score (94% in the case of the Office Technician (Typing), Sacramento selection process) and placed on the eligible list.

Office Technician (Typing), Sacramento, San Francisco
Telecommunications Technician Trainee
Telecommunications Technician, Northern California,
Sacramento and Statewide
Electrical Engineer
Stationary Engineer, Fresno, Los Angeles, Sacramento, San
Diego and San Francisco
Electrician Supervisor
Groundskeeper, San Francisco and Fresno
Janitor, Redding; and

WHEREAS, although the qualifications of the competitors were not compared in relation to each other, it is not possible, under the circumstances, to equitably determine which individuals on the above eligible lists are the most qualified; and, therefore, whether the appointees were the most qualified; and

WHEREAS, the SPB finds that it cannot make the determination that the Department of General Services (DGS) acted in good faith in administering the aforementioned examinations and thus is compelled to take actions to redress the inequities that have arisen due to the failure of DGS to administer competitive examinations; and

THEREFORE, BE IT RESOLVED, that until new lists described below are established, the aforementioned lists will be frozen to permanent appointments and only limited term appointments will be authorized within the DGS and the 19 Boards and Commissions which it serves; and be it further

RESOLVED, that permanent appointments which have been made prior to the freezing of the aforementioned eligible lists, be allowed to stand; and be it further

RESOLVED, that the DGS will proceed with administering new examinations limited to the existing candidate pool. Where there is recruitment difficulty, the Department may expand their recruitment efforts with SPB approval; and be it further

RESOLVED, that limited term appointments made from the aforementioned lists will be allowed to stand pending the expiration of these appointments. The DGS will advise all limited term candidates that in order to acquire permanent status, they will be required to re-compete in the new examinations; and be it further

RESOLVED, that the DGS' authority to administer all examinations on a decentralized basis is rescinded between July 7, 1999 and July 6, 2001, thereby requiring State Personnel Board approval of all aspects of future selection; and be it further

RESOLVED, that the DGS shall be required to have the SPB review and monitor all examinations proposed by the DGS between July 7, 1999 and July 6, 2001; and be it further

RESOLVED, that the SPB shall review delegation of all major examinations to determine whether to continue the delegation to departments of such examinations; and be it further

RESOLVED, that the SPB will audit examinations that have been administered by the DGS during the last two years; and be it further

RESOLVED, that SPB staff is directed to suitably notify all interested persons of the results of this hearing through appropriate methods; and be it further

RESOLVED, that the SPB will notify all candidates remaining on the eligible lists of the Board's decision. The Board will also advise individuals who were offered and accepted permanent positions which were subsequently rescinded when the lists were frozen that the SPB will review their appeal on a case by case basis.